

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**CHRISTOPHER BONNER,
RAQUETHIA BONNER, KENEAU
LAYMOND and AKIA LAYMOND,**

Plaintiffs,

v.

**HARRIS COUNTY, TEXAS, and
INDIVIDUALLY, S. HARRIS and
JOHN AND JANE DOE DEFENDANTS**

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Civil Action No. 4:19-CV-2675

DEFENDANT HARRIS COUNTY, TEXAS' NOTICE OF REMOVAL

Defendant, Harris County, Texas, files this Notice of Removal under 28 U.S.C. § 1446, respectfully showing the Court the following:

INTRODUCTION

1. Plaintiffs are Christopher Bonner, Raquethia Bonner, Keneau Laymond, and Akia Laymond. Defendants are Harris County, Texas, S. Harris, and John and Jane Does.
2. On May 21, 2019, Plaintiffs filed their Original Complaint ("Complaint") under Cause No. 2019-35046 in the 189th Judicial District Court of Harris County, Texas. Plaintiffs' Complaint alleges causes of action under 42 U.S.C. § 1983 and Texas law.
3. Plaintiffs attempted to serve Harris County by and through its County Judge, Lina Hidalgo, by certified mail, return receipt requested. However, the attempted service was improper because Plaintiffs failed to strictly comply with the Texas Rules of Civil Procedure because Judge Hidalgo did not sign the return. TEX. R. CIV. P. 106(a), 107(c). *See also* Exhibit C at 38 (Index of Matters filed upon Removal) (showing Judge Hidalgo did not sign return as required). Thus, service was defective and Harris County was never properly served process.

BASIS FOR REMOVAL

4. Removal is proper because Plaintiffs' suit involves a federal-question claim over which the Court has original jurisdiction and state-law claims over which the Court has supplemental jurisdiction. 28 U.S.C. §§ 1331, 1367(a), 1441(a), 1441(c); *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 312 (2005). Specifically, Plaintiffs allege a federal-question claim arising under 42 U.S.C. § 1983, and claims arising under Texas law that are so related to claims in the action within the Court's original jurisdictional that they form part of the same case or controversy. 28 U.S.C. § 1367(a). Thus, the entire action is removable.

5. Plaintiffs have not served any other Defendant, so the consent of other Defendants is not required.

6. Harris County attaches to this notice a civil cover sheet (**Exhibit A**), a list of counsel (**Exhibit B**), and an index of matters filed upon removal, which includes copies of all pleadings, process, orders, and other filings in the state-court suit, Cause No. 2019-35046, (**Exhibit C**). *See* 28 U.S.C. § 1446(a); S.D. Tex. LR81.

7. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in this district.

8. Harris County will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

JURY DEMAND

9. Plaintiffs did not demand a jury in the state-court suit.

10. Harris County asserts its right under the Seventh Amendment to the U.S. Constitution and demand, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

CONCLUSION

11. Harris County seeks to remove this action from state court based on the Court's original and supplemental jurisdiction over Plaintiffs' claims.

For these reasons, Defendant, Harris County, Texas, respectfully asks the Court to remove the suit to the United States District Court for the Southern District of Texas, Houston Division.

Date: July 22, 2019

Respectfully submitted,

/s/ Keith A. Toler

KEITH A. TOLER

Assistant County Attorney

Texas Bar No. 24088541

Federal (Southern District) No. 2599245

Attorney in Charge

HARRIS COUNTY ATTORNEY'S OFFICE

1019 Congress, 15th Floor

Houston, Texas 77002

Telephone: (713) 274-5265

Facsimile: (713) 755-8924

Email: Keith.Toler@cao.hctx.net

Of Counsel:

VINCE RYAN

Harris County Attorney

Counsel for Defendant

Harris County, Texas

CERTIFICATE OF SERVICE

I certify that on July 22, 2019, I filed a true and correct copy of the foregoing notice of removal and Exhibits A–C on the Court's CM/ECF system, and served a copy to Andre D. Evans, attorney for Plaintiffs, by email and certified mail, return receipt requested.

Andre D. Evans

Andre Evans & Associates, PLLC

3003 South Loop West, Suite 108

Houston, Texas 77054

andre@attorneyandreevans.com

/s/ Keith A. Toler

KEITH A. TOLER

Assistant County Attorney